

### REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 30, 2008. At the time of the Office Action, Claims 42-55 and 69-82 were pending in this Application. Claims 42-55 and 69-82 were rejected. Claims 56-68 were previously withdrawn due to an election/restriction requirement. Claims 42, 69, and 82 have been amended to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

#### **Rejections under 35 U.S.C. § 112**

Claims 42 and 69 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicants amend Claims 42 and 69 to overcome these rejections and respectfully request full allowance of Claims 42 and 69 as amended. The Claims 42 and 69 have been amended to specify that the information message is transmitted via the traffic channel by establishing an information session (which is then later terminated). Basis for this amendment can be found throughout the whole application, especially, paragraphs [0030] and [0031].

#### **Rejections under 35 U.S.C. §103**

Claims 42-55 and 69-82 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication 2001/0053687 filed by Timo Sivula ("*Sivula*") in view of U.S. Patent 6,138,158 issued to Stephen S. Boyle et al. ("*Boyle*"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an

apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The independent claim 1 now specifies that the traffic channel is established for sending the information message. Basis for this amendment can be found throughout the whole application, especially, paragraphs [0030] to [0031]. As explained in paragraph [0032], two separate traffic channels as disclosed in the prior art can hereby be avoided. Further, Claim 69 has been amended to correct that it is the central control device that analyzes the information message and not the transmitter/receiver. This is an obvious correction because, as stated in Claim 69, the analyzing means is assigned to the central control device. Additionally, the paragraph of the analyzing means of Claim 69 explains that the central control device analyzes the information message. Claim 82 has been corrected to refer back to the telecommunication device according to Claim 69 rather than the multimedia message service centre of Claim 67. A marked-up version of the new set of claims is enclosed, from which the Examiner may take the individual amendments made.

Turning to the rejection under 35 U.S.C. §103(a), the rejection is respectfully traversed because of the clarified amended set of claims filed. The present set of claims requires establishing, directly or indirectly, a traffic channel connection to the telecommunication device for sending the information message and transmitting the information message by establishing an information session and keeping the traffic channel for analyzing the information message and for retrieving the multimedia message. Claim 1, paragraphs 4-6; Claim 69, paragraphs 5-7. Contrary hereto, both *Sivula* and *Boyle* are good examples of the prior art, where two separate traffic channels are established in order to receive the content of the multimedia message. In *Sivula* a first separate traffic channel is

created for the notification message and then a second separate traffic channel is created for the message M. *Sivula*, paragraph [0014]. In *Boyle* this is illustrated by the two traffic channels 204 and 206. *Boyle*, Figure 2 and column 7, lines 40-65.

Since both *Sivula* and *Boyle* fail to teach establishing, directly or indirectly, a traffic channel connection to the telecommunication device for sending the information message and transmitting the information message by establishing an information session and keeping the traffic channel for analyzing the information message and for retrieving the multimedia message, it is respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

**Association of Customer Number and Change of Correspondence Address**

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **31625**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **31625**. All telephone calls should be directed to Andreas Grubert at 512.322.2545. A Revocation and Power of Attorney will be submitted shortly.

**CONCLUSION**

Applicants have now made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of Claims 42-55 and 69-82 as amended.

Applicants respectfully submit a Petition for One-Month Extension of Time. The Commissioner is authorized to charge the fee of \$130.00 required to Deposit Account 50-2148 in order to effectuate this filing.

Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert  
Reg. No. 59,143

Date: October 10, 2008

**SEND CORRESPONDENCE TO:**

Baker Botts L.L.P.

CUSTOMER ACCOUNT NO. **31625**

512.322.2545

512.322.8383 (fax)